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Intellectual Property Causes
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Attorney Docket No. P21725

In re application of : Itaru SAIDA et al.

Serial No. : 09/989,143

BOX NON-FEE

Group Art Unit : 3732

Filed : November 21, 2001

Examiner : Robyn DOAN

For : ION GENERATOR AND HAIRBRUSH USING THE SAME

THE COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

Sir:

Transmitted herewith is a Response to Restriction Requirement with Traverse in the above-captioned application.

☐ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

☐ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

☐ A Request for Extension of Time.

☒ No Additional Fee.

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The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 21	*21	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 4	**4	0	x 42=	\$	x 84=	\$0.00
No. of Dependent Claims.			140=	\$	+280=	\$0.00
Extension Fees for Month				\$		\$0.00
Total:				\$	Total:	\$0.00

*If less than 20, write 20

**If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

☐ A Check in the amount of \$_____ to cover the filing/extension fee is included.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136)(a)(3).

Will E. Lytle Jr.
 Bruce H. Bernstein
 Reg. No. 29,027 41,568

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#7/Election

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Itaru SAIDA et al.

Group Art Unit: 3732

Appl No : 09/989,143

Examiner: Robyn DOAN

Filed : November 21, 2001

For : ION GENERATOR AND HAIRBRUSH USING THE SAME

RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE

Assistant Commissioner of Patents
Washington, D.C. 20231

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Sir:

In response to the Examiner's restriction requirement dated March 11, 2003, setting a one month period for response extending until April 11, 2003, Applicants elect, with traverse, the invention identified by the Examiner as Group I. Claims 1-14 are considered to be "readable" on the invention of Group I (as set forth by the Examiner).

Applicants respectfully traverse the Examiner's restriction requirement.

The Examiner has characterized the relationship between the inventions of Groups I (claims 1-14) and II (claims 15-21) as that of "combination and subcombination". However, Applicants note that the Examiner's comments regarding the contents of the claims appear to instead be directed at characterizing Group II (claims 15-21) as the "combination", and Group I (claims 1-14) as the "subcombination".

The Examiner has stated in the restriction requirement that the combination does not require the particulars of the subcombination, such as a needle electrode and a ground electrode, and that the subcombination has separate utility, and does not require a base having an opening defined for passage of the ions and some of the bristles around the opening in the brush base removed to provide a plain surface area where no bristle exits.

However, Applicants note that the combination, as exemplified by claim 14, does require the particulars of an ion generator. Further, Applicants note that the subcombination, as exemplified by claim 12, does recite use in a hairbrush. Therefore, Applicants submit that the combination does require the particulars of an ion generator, such as that of the subcombination claims, and that the subcombination does recite use in a hairbrush, such as that of the combination claims.

Even if the Examiner's characterization of Groups I and II (or II and I) as defining a properly restrictable combination and subcombination were to be considered correct, Applicants respectfully request that all of the inventions defined in claims 1-21, nevertheless, be examined in the instant application, pursuant to the guidelines set forth in M.P.E.P. §803. That is, the Examiner is respectfully requested to reconsider the restriction requirement and find that there would not appear to be a "serious burden" on the Patent and Trademark Office in examining claims directed to the non-elected invention since the Examiner will have to search for a hairbrush including an ion generator, quite similar to that of claims 15-21 while

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searching for the ion generator of claims 1-14 (note particularly dependent claim 12).

It would appear that the search for the inventions identified by the Examiner would be coextensive or at least significantly overlap. That is, if the Examiner were to perform a search for the invention of Group I, there would not appear to be a serious burden in continuing the examination of the other invention of Group II. For this reason, and consistent with office policy as set forth in M.P.E.P. 803, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement.

For the foregoing reasons, it is submitted that the restriction requirement in this application is improper and it is respectfully requested that it be reconsidered and withdrawn.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Itaru SAIDA et al.

W. H. S. Lyndel Reg. No.
Bruce H. Bernstein 41,568
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April 8, 2003
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